VZCZCXRO6329
PP RUEHMA RUEHPA
DE RUEHUJA #1400/01 2121304
ZNR UUUUU ZZH
P 311304Z JUL 09 ZDK
FM AMEMBASSY ABUJA
TO RUEHC/SECSTATE WASHDC PRIORITY 6701
INFO RUEHOS/AMCONSUL LAGOS 1748
RUEHJO/AMCONSUL JOHANNESBURG 0071
RUEHZK/ECOWAS COLLECTIVE
RHEBAAA/DEPT OF ENERGY WASHDC
RUEATRS/DEPT OF TREASURY WASHDC
RUCPDOC/DEPT OF COMMERCE WASHDC
RUEHRC/DEPT OF AGRICULTURE WASHDC

UNCLAS SECTION 01 OF 03 ABUJA 001400

SENSITIVE
SIPDIS

DEPT PASS AID AFR/SD FOR CURTIS, ATWOOD AND SCHLAGENHAUF
DEPT PASS TO USTDA-PAUL MARIN, EXIM-JRICHTER
DEPT PASS TO USTR-AGAMA
JOHANNESBURG FOR NAGY
USDOE FOR GEORGE PERSON
TREASURY FOR PETERS, SOLOMON AND RITTERHOFF
DOC FOR 3317/ITA/OA/BURRESS AND 3130/USFC/OIO/ANESA/REED

E.O. 12958: N/A
TAGS: EPET EINV ENRG EAGR EAID ELTN NI
SUBJECT: NIGERIA: CHIEF OF MISSION DELEGATION MEETS OIL & GAS CHIEF
BARKINDO ON PETROLEUM INDUSTRY BILL

ABUJA 00001400 001.4 OF 003

REF:
¶A. ABUJA 1328
¶B. ABUJA 1209
¶C. ABUJA 1050
¶D. ABUJA 549
¶E. ABUJA 262

SENSITIVE BUT UNCLASSIFIED; BUSINESS PROPRIETARY INFORMATION; NOT FOR DISSEMINATION OUTSIDE USG

¶1. (SBU) Summary: The Ambassador was part of a diplomatic delegation (French, UK, and Dutch) to meet with Nigerian National Petroleum Corporation (NNPC) Chief Dr. Mohammed Barkindo to encourage more transparency in the oil and gas sector reform process, raise concerns with problematic provisions of the draft reform legislation or Petroleum Industry Bill (PIB), and offer possible technical assistance in certain areas. The Government of Nigeria (GON) asked for USG assistance in establishing three independent regulatory bodies and one policy agency to ensure conformity with global industry standards and practices. On concerns with the legislation, Barkindo agreed that some areas might need work and welcomed input, but emphasized that the PIB provides for transparency and good governance and is designed to reduce corruption, noting that there will be a 12-18 month transition period after the PIB is passed for oil companies to negotiate their specific aspects on current and future investments. End Summary.

¶2. (SBU) On July 23, Ambassador was part of a Chief of Mission delegation to meet with Dr. Mohammed Barkindo, General Managing Director of the NNPC. The delegation included the British and Dutch Charges' d'Affaires and the French ambassador. EconOff attended as notetaker. The purpose of the meeting was to discuss the landmark oil and gas industry reform legislation, PIB) before the National Assembly. The reform was crafted by a public private committee known as the Oil and Gas Sector Reform Implementation Committee (OGIC) commissioned by President Yar'Adua in September 2007. The OGIC mission was to take the oil and gas policy, developed by a former committee's report from 2000-2004, and craft it into a single omnibus legislation to reform and reshape the industry.

¶3. (SBU) The PIB's aim is to replace the existing 16 oil sector laws into one legal framework through ominibus legislation with clear rules, procedures, and institutions for the Nigerian oil and

gas industry. The core objective is to transform the NNPC into a commercially viable oil company to compete with Shell, ExxonMobil, Total, Chevron/Texaco and other multi-national oil companies in oil block bidding, exploration, and development and production, both locally and internationally. The new NNPC, according to the bill, would be called the Nigerian National Petroleum Company Limited and would operate like other government-owned but commercially viable national oil companies without relying on government funding.

Private Meeting to Share Concerns

¶4. (SBU) The delegation met privately with Barkindo prior to a formal boardroom meeting. The Ambassador led a substantive dialog on the issues and concerns of the international oil companies in regard to the PIB. Barkindo said that that Nigeria sees the bill as a reform legislation and a framework for good governance in the petroleum industry that will lead to increased petroleum revenues for Nigeria and new opportunities for Nigerians to participate at every level of the sector as well as to take the secrecy out of the industry by allowing for full transparency on contracts, production, and income.

¶5. (SBU) Barkindo said that the GON continues to look to the USG for technical assistance in setting up one policy body and three independent regulatory bodies separate from the commercial "for profit" organization. The PIB provides for these organizations, but there is no current structure, experience, or human capacity for this type of regulation and policy. Barkindo supported Minister Lukman's idea to establish a mentoring effort between Nigeria and related U.S. entities to address organizational structure, procedure, processes, and regulatory mechanisms in general (reftel B & E). In the PIB, the policy arm would be the Nigerian Petroleum

Directorate (NPD) which will function as the secretariat of the minister, and formulate and develop strategies to implement industry policies. The three regulatory agencies are:
--National Petroleum Inspectorate (NPI), an autonomous stand-alone technical regulator to replace the Department of Petroleum Resources (DPR);
--National Midstream Regulatory Agency (NAMIRA), responsible for all matters related to the midstream, covering pipeline transportation, storage, refining and liquefied natural gas; and
--Petroleum Products Regulatory Authority (PPRA), to regulate the commercial aspects of the downstream sector, including petroleum products and natural gas distribution to the end-users.

¶6. (SBU) Ambassador stated that the USG supports oil and gas reform, a point other members of the delegation endorsed. She added that the USG wants to better understand how it can work with the NNPC, the Ministry of Petroleum Resources, the National Assembly and other stakeholders to ensure concerns are addressed as smoothly as possible. The Ambassador underscored the following points:

-- Key industry players, including international oil companies with long experience in Nigeria, believe that the proposed fiscal terms in the bill would have a negative impact on future investment in the oil and gas sector. A report commissioned to McKinsey & Company on behalf of the Oil Producers Trade Section (OPTS), an industry organization, concluded that under the reform law joint ventures may be expected to invest up to $165 billion between 2009-2020, of which $74 billion and its associated production growth is deemed at risk;

-- The new IJVs may fail to become self-funding, which is an important objective of the reform. The industry believes that contrary to expectation, the proposed fiscal changes would severely undermine the ability of the IJVs to achieve self-funding. There is a lack of clarity on how the transition from current legal and fiscal rules to the new ones would occur, such as the transfer of assets of the UJVs into IJVs which could create administrative risks for the transferring of licenses and property rights. Also the lack of "grandfathering" of fiscal incentives creates a high degree of uncertainty for investment for both investors and shareholder alike.

-- According to the industry, the combination of high development costs and PIB fiscal changes would have a negative impact on the development of the gas sector. The proposed increase in taxation, the non-competitive government pricing for domestic gas, and the reduced investment incentives create significant problems. The international oil companies report that under the PIB an estimated 890 percent of new gas projects would become economically unviable. (Note: OPTS states that Nigeria has the third highest production cost in the world per unit of gas produced, after Brazil and Norway. Current Nigeria JV terms already generate one of the highest government takes in the world 88% at $60/barrel (bbl), with an expected rise to 94% post PIB. End Note).

-- Uncertainties about independent arbitration and property rights in production sharing contracts and increased taxation would significantly reduce deepwater investments and future production. A proposed new requirement that production sharing contracts (PSCs) should be renegotiated when commerciality is attained amounts to a unilateral change in the agreed terms and tenure of existing PSCs. This is of serious concern since the right to independent arbitration seems unattainable as written.

¶7. (SBU) Barkindo agreed that some areas of the PIB might need attention and welcomed assistance. He added that the bill would have 12-18 months to transition once it became law, which the GON feels is adequate to make any necessary changes. Barkindo opined that the new legislation would unlock conflicts in policy and regulation for the first time in 50 years, and said that the PSCs will be designed to meet the challenges of the current times and not those from the past. The world, he said, has moved on and this legislation allows Nigeria to keep pace with the oil and gas industry globally and align economic rents to current world realities in a non-punitive manner.

¶8. (SBU) Barkindo noted that each unincorporated joint venture (UJV) will be individually renegotiated as it moves to IJV. The difference is that all contract terms would be public knowledge, and he underscored that good governance will eliminate secrecy, which aids corruption. The PIB requires that all texts of all licenses, leases, and contracts, and any of the modifications or changes to such documents will no longer be confidential. He added that payments to the GON would be public information. All petroleum geological, geophysical, technical and well data would be accessible for all interested persons in a national data base.

Boardroom Meeting Attracts Wide Attendance

¶9. (SBU) NNPC executives made a thorough presentation of the PIB and offered supporting materials, including the most recent version of the bill. The Ambassador thanked the NNPC and the Ministry of Petroleum Resources employees for their dedicated work on the PIB. She reiterated the key points she had made in the private meeting, stressing that there is room to tighten language in the PIB to reduce the risks to the GON's reform goals, to direct investment and revenues. She added that the U.S. is a friend and partner to Nigeria and offered assistance to support the reform process. The British Charge offered assistance with policy support and staffing. While the Dutch Charge stated that the Netherlands has been working closely with the NNPC on reform and underscored that the PIB needs more balance.

¶10. (SBU) Comment: The PIB is a major reform accomplishment if it becomes law. The GON is sensitive that this legislation be a visibly Nigerian product, but the international oil companies fear that delays in securing support for key amendments, especially to the fiscal aspects, would severely damage their interests and the growth of the Nigerian oil and gas industry. End Comment.

¶11. (U) This cable was coordinated with ConGen Lagos.

SANDERS